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## **Written Evidence submitted to DAERA on the NI 'Future Agricultural Policy Framework'**

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# **Northern Ireland Future Agricultural Policy Framework:**

## **Stakeholder Engagement – Questions**

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We have provided answers to most of the specific questions below, but would direct your attention in particular to our main points in response to the open-ended Q.40.

### **1. What are your views on the retention of entitlements as the basis of direct support until a new agricultural policy framework is agreed?**

**Such entitlements should be retained at least until a new policy framework is implemented**, with a sufficiently long transitional period, although with the possibility to adapt these somewhat (as provided for instance in the English Agriculture Bill, Schedule 4).

Firstly, there is a legitimate expectation to receive funding up until the end of the CAP cycle. Farmers invest through capital expenditure, rent, crops etc in reliance upon what they have been promised they will receive. Circumstances have changed, but nevertheless funding has been guaranteed by the UK government until 2022.

Secondly, as reflected in the engagement document, farming in NI is an extremely important industry. Approximately 78,000 employed in farming and support services (McFarlane et al., 2018, p. 11), which has broader knock-on effects, through injecting money into the NI economy (Gravey & Dobbs, 2018) as well as via the multifunctional nature of farming, e.g. its links with the rural communities.

Further, farms are widespread across NI, but approximately 4/5 of the farms are considered to be 'very small' (DAERA, 2018, p. 41) and similarly the majority are in deprived areas, which is relevant to their relationship with the environment. A patchwork of small farms increases (without guaranteeing) the likelihood of biodiversity within the ecosystem, whilst ensuring the land is actively managed. Smaller farms also tend to be less intensive, which may reduce the negative externalities on the environment. Consequently, there is the potential for considerable positive environmental effects on the environment, if managed appropriately. Overall, small farms are something generally to be protected, especially if the alternatives are land abandonment (e.g. in deprived areas) or amalgamation into large, uniform farms (although these can be run in an environmentally sustainably fashion).

Thirdly, as noted in the engagement document, there is heavy reliance on the payments currently. The majority of farm income in NI comes from financial support, in particular the direct payments. The precise level varies according to the year and type of farming, being affected by multiple factors, but overall there is a high level of dependency on financial support. It has been suggested that DEFRA's proposals of a move away from direct payments will lead to a loss of 25% of the less profitable farms in England, due to becoming unsustainable.<sup>1</sup> This figure would be greater in NI, due to the nature of farming and the heavy reliance on the direct payments. The majority of NI farms would be in danger if the direct payments were removed without a suitable alternative. Alternatives can provide cushioning, but such alternatives would need to be carefully planned, progressively introduced, predictable, substantial and with a long lead-in period to ensure that they are effective.

Consequently, the payments should continue at least until 2022 and until at least a new agricultural policy framework with related financing has been *implemented* and not just agreed. England and Wales have set their transition to end in 2027. It would be sensible for NI to follow a similar course to ensure the receipt of financial support and compliance with future trade policy.

Fourthly, Schedule 4, Part 1, clause 2(1) enables DAERA to provide direct payments for areas with natural constraints. This is very much welcome to ensure a relative certainty to farmers but the requirements to receive such payments should not be too restrictive.

There needs to be a significant transitional period between now and the abolition of direct payments. Finally, even if a new policy and new support mechanisms are agreed, some limited direct payments/entitlements may still be needed due to the nature of NI farming – reflected perhaps in the idea of 'resilience payments' in the document.

The key questions are if and when a new policy will be agreed, in light of the absent NI Executive and Assembly. Additionally, who will fund the new policy?

## **2. What are your views on the possible abolition of the greening requirements of crop diversification, ecological focus area and retention of permanent grassland and the incorporation of the greening payment into the BPS entitlement values?**

Greening requirements are a great idea in principle, but they have a bad reputation for being simultaneously burdensome and ineffective. Much of the surrounding discussion is on simplification and reduction of burdens. They are not considered to actually encourage more environmentally friendly behaviour. However, it is important to note that such requirements may incentivise land users at least not to act in a more environmentally unfriendly manner, i.e. it may prevent a reduction in environmental standards – whether it is proportionate or alternative measures exist is then another consideration.

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<sup>1</sup> See comments made by Ludvine Petetin at the Game and Wildlife Conservation Trust All-Party Parliamentary Group in March 2018, <https://www.gwct.org.uk/policy/appg/march-2018/>; in the Farmers Guardian, <https://www.fginsight.com/news/news/defra-makes-decision-to-let-quarter-of-uk-farms-disappear-57116>; and in UK Business Insider; <http://uk.businessinsider.com/quarter-english-farms-bankrupt-after-brex-2018-4>).

Further the context is essential to consider. NI environmental governance is already highly problematic, with a history of governance failures linked in part to the Troubles but continuing on today (Brennan & Purdy, 2017). There has frequently been a lack of political will to address environmental issues, despite the uproar that has arisen on occasion, e.g. regarding the illegal Mabouy waste site or the ‘cash for ash’ policy. Brexit threatens to undermine environmental governance across the UK, with significant impacts on NI (Brennan et al, 2018) – e.g. through the loss of the role of the Commission and the Court of Justice, as well as the role of environmental principles and the cross-border mechanisms. Consequently, environmental governance/regulation may need the extra help it can receive from the softer approaches such as through the greening requirements. Therefore, it would be important to maintain these requirements at least until NI ensures that it has an effective environmental governance system that will ensure compliance.

**3. What are your views on the retention of the current ploughing ban on environmentally sensitive permanent grassland (i.e. within Special Protection Areas and Special Areas of Conservation) and how this could be achieved?**

Permanent grasslands are a key habitat for biodiversity – maintaining the ploughing ban would be positive. This needs to be well advertised so no permanent grasslands are ploughed during transition from one policy to the next due to lack of information. Support to farmers to check which types of grasslands is to be ploughed or not should also be offered.

**4. What are your views on those accepted into the YFP up to and including 2019 continuing to receive payment for as long as they are eligible to do so?**

Yes: the farmers arguably have a legitimate expectation to receive these payments until their eligibility ends or the CAP cycle concludes.

**5. What are your views on whether to allow further applications to the YFP and the Regional Reserve after 2019?**

Incentivising younger generations to enter and stay in farming is important if farming is to be maintained on a community basis. These should be continued until at least 2022, as guaranteed by the government. Alternative mechanisms to encourage younger generations to engage could be developed in later policy – this may involve incentivising and rewarding education, but also improving resources in rural communities and the standard of rural life. Overall, facilitating generational change should be one of the priorities of a future policy.

**6. What are your views on the most effective means of encouraging and facilitating generational renewal on farm businesses?**

This needs to be determined in conjunction with farmers themselves and by broader engagement with the younger generations – especially in the rural communities. Providing a high quality of life and suitable opportunities for new farmers and for farmers throughout their lives and careers is essential.

**7. What are your views on whether the elements of the current direct payments discussed in Section 2.7 could remain in 2020 and 2021?**

Generally speaking, these could all remain. However a few core points of concern arise from the proposal:

- a) Cross-compliance. This is something that could be very useful, especially post-Brexit if environmental governance is undermined more generally, yet there are flaws in how it operates currently and different stances are taken across the paper. There is a lack of clarity as to what is being proposed.
- b) Suggestion is made to review penalties and ensure they are proportionate – proportionality is an important principle of law, but it is essential to reflect on what the objectives are what makes a penalty proportionate. Various theories are relevant, but one of the core ones is that of deterrence and behavioural economics more generally – penalties are not just about punishment/retribution or even about remedying the wrong, but are also intended to provide both general deterrence (deter others from this behaviour) and specific deterrence (repeat behaviour by this individual). Frequently when regimes are being reviewed to ensure penalties are proportionate, it is more about reducing penalties and easing burdens without considering the reasoning for the penalties.
- c) An annual review of inspection rate is proposed – again, reviews can be valuable and inspections should be appropriate, but the same caveats and considerations apply: what are the inspections to achieve and what are the reasons to curtail them? More fundamental, this is proposed for 2020 and 2021 – if the transition period really only lasts that long, an annual review may be pointless.

**8. Have you any specific suggestions for simplifying other aspects of the current direct payment in 2020 and 2021 which are not mentioned here? If so, please explain your rationale for suggesting these.**

No comments at this time.

**9. What are your views on a “Productivity Grand Challenge” approach to delivering a step change in the rate of advance in science and innovation?**

The role of science and innovation in principle could be extremely beneficial, however the question raises 3 issues: the nature of the focus on productivity; the limited potential of NI and need for realism; and the control over technology/science/innovation, with relevant knock-on effects.

Firstly, a focus on productivity itself could be highly beneficial. However, despite the references to synergistic approaches and the need to be ‘compatible with improving environmental sustainability and delivering high animal welfare standards’, the focus is still on ‘growth’ rather than efficiencies, quality (quality is a component of the supply chain, but not a key focus) or sustainability. Public health and food’s contribution to this is also omitted. We have seen the negative environmental impact of pressures and incentives to increase productivity previously (as encouraged by earlier renditions of the CAP for instance). The emphasis and therefore balance could be altered.

Linked to this, even if with a shift in balance, it is very possible for individual approaches by farmers to seem to fulfil both productivity and environmental aims simultaneously, e.g. through growing specific crops that do not require much use of chemicals, are high yield, nutritious etc. The difficulty is that all farmers may seek to grow the same crops leading to increased presence of monocultures and thereby undermine plant genetic diversity as well as impacting on the existence of different habitats. A similar situation can arise in the context of farmers raising the same breeds. Biodiversity of all sorts is essential to environmental sustainability and also, through strengthening resilience for instance from diseases, to agricultural sustainability (Frison, Cherfas and Hodgkin, 2011). Implementing measures would need to reflect this and ensure that the increasing trend towards monocultures is not promoted and indeed that steps are taken to reverse this.

Secondly, there is a need to be realistic about how much agriculture productivity can increase in NI. The document (section 4, p.21) says that NI “should, at the very least, keep pace with the productivity growth of its competitors and indeed outperform them if it wishes to capture additional market share.” The competitors here refer to the USA, France, the Netherlands and Italy. Firstly, NI does not have the same potential for growth as other countries, e.g. the USA, even if one just looks to the size of the country, the population and the nature of the land/farms (majority are small and in less favoured areas). Secondly, even if NI could increase productivity at the same rate, this is not necessarily a path that should be followed – whilst NI could learn for instance from France’s adoption of agroecology, does NI really wish to follow the path of the USA and its approach to intensive farming, monocultures, growth hormones and chlorine washing for instance? E.g. USA saw a loss of 80+% for 72 of 75 vegetable varieties in the USA between 1903 and 1983 (Fowler and Mooney, 1990).

Clearly science and innovation can promote greater efficiencies, more effective monitoring, higher yield or nutritional crops etc. However, firstly care needs to be taken that any product meets certain safety criteria – for the environment and human health. A suitable prior authorisation procedure is therefore required. This is currently regulated under EU law for a range of types of products, crops, foods etc – with varying regimes depending on the type of product or how it is produced. Depending on the type of Brexit that results, NI may still have to comply with these rules (even just for trade purposes) but it may need to develop its own regulatory system also – potentially in conjunction with the rest of the UK.

Secondly, the use of science raises a series of secondary questions beyond initial safety: Is the product useful? Who determines the focus points? Who undertakes the research? Who controls the output? What are the long-term effects of such research? The engagement document warns against perverse outcomes and this is one such instance where this could arise. It is feasible for public or private funding to be used to research unnecessary and counterproductive aspects – ones that perhaps further corporate interests through enabling greater control of the market, without necessarily making a significant positive difference to agriculture or society. Two examples highlight these issues: 1) corporations may fund the simultaneous development of chemical X and then crops that are resistant to chemical X, where chemical X address some pest or disease harmful to the crop. Farmers then may purchase only the resistant crop and then be tempted to spray chemical X widely as their crop will not be harmed, even though this increases monocultures and liberal spraying may be harmful for the environment or human health. 2) where plant genetic resources are patented (due to some inventive step), then that patent attaches to the progeny and provides the patent holder with very significant control over any progeny – even where these are grown accidentally or have outcrossed with crops (Dobbs, 2017). This is a very complex issue, but primarily care needs to be taken about the control that is given to multinational corporations via technology, the market and the law.

- 10. What are your views on the principle of placing greater policy emphasis and investment in agricultural education and knowledge transfer as means of driving better industry outcomes?**
- 11. What are your views on linking qualification attainment with a broader range of policy interventions as a means of incentivising farmer engagement with formal training initiatives?**
- 12. What are your views on continuous professional development (CPD) as a policy intervention and the possible investment of public funds to incentivise CPD?**

For questions 10-12:

Most opportunities to improve farm resilience and increase the delivery of public goods in agriculture require increased knowledge transfer. Putting investment in agricultural education at the heart of this policy is a welcome move that would tackle a major hurdle to this new policy achieving its objectives.

Taking time out from farming to pursue CPD is often difficult – sessions should be offered continuously throughout the year to allow farmers to plan their training in relative downtimes. Incentivising farmer engagement may be necessary at first, if only for farmers who have not engaged recently in CPD to get (back) into this habit.

Knowledge transfer should not be unidirectional: for example, farmers engaged in pilot schemes should have the opportunity to report back on their experience, informing both the farming colleges and other farmers directly. This would improve farmers' ownership of training and of the different policy interventions offered.

As farming policy moves towards increasing resilience and delivering public goods so must agricultural education evolve as well making sure that sustainability is central, at both degree level and through continuous professional development.

**13. What are your views on the provision of investment that is specifically targeted on innovation and new technology uptake and that is aligned to other strategic objectives, notably environmental performance?**

In principle, this could be very beneficial through promoting for instance efficiencies and precision farming. In practice, care needs to be taken to ensure that technologies are useful, sustainable and do not lead to perverse outcomes. As noted in Q.9, consideration also needs to be given to the control that this might give corporations over resources, e.g. through the patenting of CRISPR and its impact upon access to plant genetic resources, as well on certification and access to markets.

**14. What are your views on the provision of investment incentives other than capital grant (such as loans, loan guarantees, interest rate subsidies etc.)?**

Helping farmers to invest is critical. In addition to loans, loan guarantees etc. specific support through CPD should be offered to help farmers interested in investing put together an investment strategy, and find like-minded partners to invest with (such as buying new machinery to use on different farms together).

**15. What other initiatives by government and/or industry should be pursued to facilitate restructuring and investment and drive productivity?**

The ‘golden handshakes’ considered in England<sup>2</sup>, to help farmers wanting to move out of farming could be considered – it may help older farmers consolidate their pensions and facilitate passing the baton to younger generation. However, care needs to be taken to ensure that this does not just lead to land abandonment and a deterioration of the environment.

**16. What are your views on the provision of a basic farm resilience support measure?**

Farm resilience is a broad concept, which goes beyond *economic* resilience, and also includes key environmental aspects such as improving soil health etc.

**17. What are your views on an appropriate mechanism to establish the level of payment under a farm resilience support measure?**

No comment.

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<sup>2</sup> <https://www.fwi.co.uk/news/farm-policy/agriculture-bill-golden-handshake-to-quit-farming>



**18. What are your views on the targeting of a basic farm resilience support payment to take account of issues such as natural disadvantage?**

Taking natural disadvantage into account for basic farm resilience support ensures other criteria beyond economic resilience are taken into consideration – in particular, farms in natural disadvantaged area are more prone to engage in biodiversity-rich High Nature Value Farming (see example from North West Highlands of Scotland<sup>3</sup>). Alongside making this basic farm resilience support available to HNV farms in naturally disadvantaged areas, additional policy interventions focused on increasing the environmental public goods delivered by these farms are needed, i.e. although such farms are inherently more likely to achieve environmental public goods, further incentives could encourage greater and broader desirable outcomes.

**19. What are your views on linking a farm resilience support measure with cross compliance obligations?**

**20. What are your views on the content of cross compliance/good farming practice associated with this provision?**

**21. What issues would an appropriate cross compliance regime seek to encompass?**

**For Q19-21:**

Cross compliance currently contains two elements: statutory requirements and good farming practices (good agricultural & environmental conditions). In the forthcoming period of policy uncertainty with Brexit, keeping cross compliance in place is critical to prevent environmental backsliding. Trimming cross compliance down to only the respect of statutory requirements would be problematic: you would in effect pay farmers and land managers simply to abide by the law. As such, a farming practice component to cross-compliance is critical – but it can be better tailored to local conditions and to local priorities. Considering the major challenge of ammonia emissions in Northern Ireland, good farming practices could be, for example, linked to the Action Plan for Ammonia.

**22. What are your views on the tiering or capping of a basic farm resilience support payment, or the establishment of an eligibility threshold?**

Whilst fairness and efficiency arguments can be brought to bear here to support tiering or capping, the prevalence of small farms in NI makes this less imperative than in the rest of the UK.

An eligibility threshold ensuring that the farm is actively managed could be useful. But minimum size requirements are problematic, especially considering the nature of farming in NI and the benefits derived from small farms – instead of preventing farms under e.g. 3ha to access support, small holdings could be supported in applying jointly to reach the threshold.

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<sup>3</sup> <http://ec.europa.eu/environment/agriculture/pdf/High%20Nature%20Value%20farming.pdf>

### **23. What are your views on the introduction of anti-cyclical/insurance type measures to help address volatility?**

a) An option of insurance could be a useful tool to manage various types of risks (including market volatility, financial and environmental threats), but the proposal does indicate that setting it up may be problematic: will insurance even be possible in principle? Will it provide farmers with the security that they need? E.g. housing insurers may refuse to insure houses on flood plains/that have previously flooded, or charge exorbitant premiums – will farm insurance suffer from the same challenges?

A potential solution might be to get farmers to feed into a public insurance fund that can be drawn upon in some instances. However, irrespective of who runs the fund: insurance systems require considerable quantities of detailed information, which takes time to develop and would not be available in NI at this time.

b) Further, the proposal suggests that farmers will not be protected if they ‘*choose*’ not to be insured, but it may not be feasible for them to insure themselves. Many farms in NI are barely surviving economically and may not be able to afford insurance – there might not be a real choice. NI might decide not to support all farmers or help them with insurance, but this should be done openly and without the excuse of ‘they chose not to help themselves’.

Membership of an insurance scheme could be made a condition of receiving financial support, but then increased support might be needed.

c) Depending on the conditions of any insurance scheme and what is being covered, this may encourage increased risky behaviour – whether economically or environmentally risky. i.e. by holding insurance – farmers may shift from being risk averse to risk tolerant, whether this be through planting unsuitable but high yield crops or excessive spraying or ploughing at the wrong time.

Insurance should be an option and perhaps even facilitated/promoted (with caveats/conditions), but the focus for NI should be on resilience and sustainability of farming on a practical and environmental footing. If insurance is in place, then the regulatory regime may need to be adapted to develop further deterrents to ensure that land users do not simply use their insurance to avoid punishment (besides increased premiums) and build it into their running costs.

### **24. Should anti-cyclical/insurance type measures be sector-specific or aimed more generally at income protection?**

Speak to insurance experts. Need to know: will it be affordable for the farmers? Will differentiating benefit the more vulnerable farmers or lead to them being exploited?

**25. What are your views on the enhancement of fiscal measures as a means of addressing the issue of income volatility?**

These should be availed of and maintained where appropriate. Care needs to be taken not to incentivise excessive investment in land or equipment in order to reduce income for the year, thereby losing liquidity and the financial cushions necessary to address later shortfalls or urgent expenditures. Incentivising capital investment that delivers dividends and enables increased efficiencies is valuable, but so is having the ‘rainy day’ fund.

**26. What are your views on a possible pre-defined and agreed crisis response framework to respond to crisis events, either locally or nationally?**

An appropriate crisis response framework would be extremely advantageous. This should not merely deal with the financial components, but should address broader risks, e.g. food safety, human health, environmental health etc and should address cross-border implications. A starting point for the broader framework would be to look the EU’s RASFF system.

It would be necessary to determine in what circumstances the local councils/NIEA/NI/UK would step in and what steps would be taken, e.g. coordination, mandating measures by farmers/land owners, taking pre-emptive measures themselves, compensation (in part or in full), providing necessary resources without charging farmers (then or perhaps at all), etc. Whilst building agricultural resilience is essential and insurance might provide some protection, very practical aid/steps will be required in some instances, e.g. heavy snowfall trapping starving animals, lack of electricity for long periods, epidemics and so forth.

A common framework with the ROI should be developed and maintained regarding action addressing cross-border issues post-Brexit. Further a UK-wide approach should be taken on this front, with financial support for any appropriate measures. Differentiations can be made then that relate to the individual agricultural policies in the 4 jurisdictions and that respect the variations across the UK.

This is also an animal health and welfare issue, as much of NI farming involves livestock. Where crises arise, this will frequently relate to being able to feed or care for those animals, or may indeed relate to preventing the spread of diseases to them.

**27. What are your views on the suggested environmental principles to be incorporated within the agricultural policy framework?**

The 4 proposed ‘principles’ are generally acceptable. However, it would be beneficial to link in actual environmental principles and objectives, especially as these will lose considerable application in the case of a hard Brexit. The sole one that could be considered as a traditional principle/objective is that of future generations, which could still be tightened up.

Regarding principles 2-4, the following comments can be made:

Outcome-based rewards: these obviously have their advantages, as they incentivise individuals to achieve specific standards considered to be beneficial by society rather than purely a tick-box, procedural approach. However, outcomes cannot always be guaranteed, despite the best efforts and intentions. Farmers may not risk investing if there is no guarantee

of at least off-setting their costs. Further, the assessment methods for outcomes based will be crucial to the success of any future policy. However, the policy is silent on the basis of such methods. An alternative to simply outcome-based measures would be to provide some initial investment funds, and then instalments for steps/procedures, milestones and finally the eventual outcomes – the rewards could vary so that there is a significant increase when it comes to the outcome itself. Flexibility in relation to the approaches for achieving the outcomes and as regards the milestones will be necessary, with broad principles applying generally and then more specific criteria being tailored for specific localities or farms.

Co-design: this is a valuable tool, which facilitates early engagement and buy-in by those involved. It enables the creation of approaches that are acceptable to stakeholders and feasible to be undertaken by those concerned, through using their practical experience and knowledge rather than simply relying on theoretical or statistical input. If this goes beyond the initial formulation of the measures to also include review and revision, then it enables a form of responsive regulation (Ayres & Braithwaite, 1992), whereby the approaches can also evolve and respond in light of continuing feedback.

However, co-design and responsive regulation is also challenging, including because it risks regulatory capture (e.g. Dana, 2000; Baldwin and Black, 2007), whereby the broader public interests of society are made subservient to those involved in designing the regulations/relevant measures. A partial solution would be to engage others in the design also – as with the creation of this engagement document. For instance, public interest groups (Ayres & Braithwaite, 1992, Chapter 3), including rural community organisations, consumer organisations and environmental NGOs. This would enable counterbalances to be created, whilst still engaging relevant stakeholders. However, it still enables stronger groups to sway the design, may still go contrary to the public interest or lead to strategies detrimental to minority groups, or lead to the public interest groups becoming *de facto* regulators. It is essential that DAERA (and eventually the Minister) recognise this potential and take steps to counter such risks (see Baldwin and Black, 2007).

Behavioural change and access to information: Information is essential for engagement by all stakeholders. This links in to the principle of co-design, as broad collaboration and cooperation also demands a sharing of knowledge and information. This in itself means that all parties must have basic shared knowledge, including terminology. Complications may arise if fundamentals are not explained and if common understandings do not exist – education, but also simply respectful communication, is required (Petetin & Dobbs, 2018a).

## **28. What are your views on the need for investment in research and education targeted on environmental and conservation management in the agricultural sector?**

This is essential in its own right and also in order to demonstrate its integral importance within farming/land management. Consideration should be given to the Nature Matters NI submission here and also to their comments regarding the adoption of agroecology in France.

Integrated, holistic approaches that avoid silo-ed or antagonistic approaches are essential if both economically and environmentally sustainable farming is to be promoted.

**29. What are your views on a shift towards outcome based environmental measures for agriculture, including co-design with farmers and land managers?**

See response to Q.27 above.

**30. What are your views on the need for future schemes to move beyond the costs incurred income forgone approach to incentivise changes in farming practice to enhance environmental sustainability?**

Firstly, ‘income foregone’ approaches are typically limited in which costs they address. If applying this approach, a very wide and open interpretation may be required.

Secondly, under the Agreement on Agriculture of the World Trade Organization (WTO), ‘income foregone’ (the extra costs or loss of income in the text of the agreement) mostly comes into play for level of payments under the environmental and regional development programmes that fall within the Green Box. Payments made under different programmes within the Green, Blue and Amber boxes would not be restricted by ‘income foregone’.

Thirdly, ‘income foregone’ was included in the AoA because historically farmers are supposed to sell their products onto the markets and the difference between the sold price and the farmer’s expenditure would be paid by agricultural support. However, under a framework of payments for enhancing environmental sustainability, farmers would not necessarily create products that can be commercialised. Therefore, if payments were limited to income foregone, farmers would be operating at a loss and would be unable to recuperate the income generated by the sale of their products. There is no reason why NI/ the UK should adopt a strict interpretation. Further, income foregone focuses on financial and economic incomes, not environmental outcomes. Higher levels of payments (i.e. beyond a strict interpretation of income foregone) should be compliant with WTO obligations (Petetin, 2018).

Fourthly, ‘income foregone’ approaches only balance the scales - they compensate without rewarding. This will only suffice where the individual wants to undertake the activity already, but cannot afford to. Yet, the aim here is affect change – not merely to have inertia. To do this some further incentive is required that will reward the individual for their actions. This does not mean necessarily further state funding, as the rewards may be through the farmers’ own health, the use of quality produce labels/certification, long-term resilience of crops/animals etc. However, some additional incentive is required if behavioural change is sought.

Alternatives might be to add in bonuses for achieving suitable outcomes, with for instance the sums increasing (with eventual caps) for every year that the appropriate steps are taken/outcomes achieved and if there is break (once or possibly twice) then the bonuses are

lost and the individual has to build them up again – akin to no claims bonuses for car insurance!

Further, group schemes might be feasible – whereby all farmers/land users in a specific catchment area might obtain further bonuses where there is large scale buy-in to the scheme, with increased bonuses for every individual/farm in the group that complies. This would be particularly useful in the context of habitats, water quality or air quality for instance and links in to the ideas of natural resources as common goods or public goods - with access for everyone, but also responsibilities.

### **31. What are your views on the role of other actors in the supply chain seeking to drive better environmental outcomes?**

The engagement of actors across the supply chain is valuable. Consumers, retailers, caterers, wholesalers etc can all provide extra pressures or incentives to change behaviour, e.g. in calls for less packaging (Lidl announced recently that it was going to reduce/remove packing from fruit and veg, whilst some shops can be seen to now use compostable bags in lieu of ordinary disposable plastic bags), green marketing, emphasis on ‘slow food’, value of short supply chains etc. This ties in again to education, emphasizing the value of environmental and other objectives, and facilitating people in making better choices. Again, Nature Matters NI have provided several examples of the potential for a positive impact. Research with NI stakeholders has also demonstrated potential interest in green marketing and the development of ‘quality’ produce and labels (Foord, 2016).

However, care should be taken. Firstly, the interests of those involved will not necessarily match society’s broader interests, e.g. what of the packaging industry if packaging is removed? This could lead to opposition to important changes depending on the strength of the industry. Secondly, if packaging is reduced for instance and the packaging industry is undermined, what of the broader societal knock-on effects? NI may need to then assist individuals adapting within that industry or leaving it. Finally, countervailing effects are possible and we need to be careful not to create greater problems, e.g. plastic was originally intended as a replacement for ivory in billiard balls, piano keys etc.

### **32. What are your views on the delivery models that would deliver the best uptake and outcomes?**

Ideas that could be looked at this context are legitimacy (encouraging compliance and engagement) and behavioural economics/psychology (use of incentives, deterrents, consideration of best efforts, strict/fault-based liability etc). These cross disciplines, but this is something that underpins environmental governance, which is reliant on changing attitudes and behaviour and trying to achieve outcomes that are not always guaranteed.

Different schemes will be appropriate depending on the context but 5 key, interrelated elements are essential:

- Appropriate objectives;

- Buy-in from the farmers/land users;
- Viable, effective schemes;
- Integrated, holistic approaches; and
- Appropriate and effective enforcement.

The achievement of these elements is going to be reliant upon deep collaboration, sufficient and appropriate resourcing, a multifaceted, multi-layered approach for schemes, and a firm hand.

Collaboration across the levels, across the disciplines and across the different stakeholder groups would be considerably advantageous (Petetin & Dobbs, 2018a). By engaging in co-design in the first instance as outlined above, this can lead to greater buy-in due to deliberative governance and input democracy (essentially legitimising the process in the eyes of stakeholders) rather than having external objectives and values imposed on them from afar. This can be used not merely at later stages for the details of the schemes/individual projects, but also in designing appropriate objectives – this can also be through learning from the English consultation and seeing what responses were made there, e.g. further suggestion regarding public health and rural development (for more information please see (Petetin and Dobbs, 2018b)). As noted above, steps must be taken to protect the process from regulatory capture – whether in designing the objectives or the later schemes.

Such collaboration can also help in identifying and developing more innovative schemes, whether for individual farms or in a broader catchment area, that are also practicable in light of daily experiences and knowledge. This could be continued on through group incentives/rewards for enhanced outcome achievements, which also motivates widespread compliance and self-monitoring and self-disciplining by the group. It also enables participants to flag issues at an early stage, through having an established relationship and understanding of expectations.

However, collaboration is insufficient by itself. Adequate resources must be deployed – in funding the relevant research in designing the schemes in collaboration with stakeholders, in providing financial support for individual schemes (at all stages) but also broader training, in ensuring appropriate levels of independent monitoring, and in providing enforcement mechanisms as required. A suitable agricultural policy that rewards land users for beneficial behaviour will be a costly endeavour, although it may be feasible for instance to avail of consumer preferences and market mechanisms to support the schemes further.

A multi-layered, multi-faceted approach has the benefit of opening up the possibility of funding for different stages and different actions, e.g. for efforts and for outcomes. The main goal of any schemes should be outcomes, but as noted for Q.27, it is important to provide rewards/funding at all stages – as an incentive and also simply to ensure the viability of the actions. Efforts and milestones should also be rewarded. Collaboration may help identify suitable milestones, what outcomes are feasible, what support would be necessary and what incentives might be sufficiently attractive.

More fundamentally, it is also essential that any schemes address all environmental media and the environment as a whole, rather than taking a silo-ed approach. As the environment is not controlled on a per farm basis, need to consider environmental media and ecosystems as a whole e.g. farmers in a specific catchment area or migratory path. This is also about broader crop diversification and not simply crop diversification on one farm. Again a collaborative approach that looks beyond individual farms would help develop wider schemes applying to broader catchment areas and potentially entire ecosystems. As noted in Q.27, this might also avail of group rewards to provide additional incentives for positive behaviour.

However, whilst buy-in, legitimacy and self-monitoring (individually or in groups) are all valuable. NI must be prepared to take a firm hand or otherwise there is no real incentive to change or deterrent from poor behaviour. This is dependent on adequate monitoring by independent experts and effective sanctions (Brennan, 2016) – not merely where individuals commit offences, but also in losing suitable amounts/types of rewards – hence why rewards need to both be about steps/procedures and outcomes.

Examples that demonstrate some of these elements can be seen in Nature Matters NI's submission to this engagement, as well as in the National Trust's land management schemes and the Welsh Games and Wildlife Conservation Trust's 'Farmer Clusters'.<sup>4</sup>

### **33. What are your views on the role of government in ensuring market transparency?**

If evidence indicates a lack of transparency, with negative impacts upon producers and consumers (or indeed any parties), then the government may need to take some action to enable easier access to information. Competition law may also be relevant depending on the context.

### **34. What are your views on CPD extending to encompass supply chain awareness training for farmers, including increased emphasis in farmer training on business planning, benchmarking and risk management?**

Beneficial.

### **35. What are your views on the need for, and nature of, government action to achieve greater collaboration within and better functioning of the agri-food supply chain?**

This would be important in any context, but in light of Brexit, greater collaboration and better functioning is essential. This is especially the case considering the interdependence between NI and the ROI in for instance dairy production. This needs to go beyond simple collaboration – see brief comments in response to Q.40.

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<sup>4</sup> <https://www.gwct.org.uk/farming/advice/farmer-clusters/>.



**36. Are there any equality comments that you wish to raise at this point? Do you have any evidence that would be useful to the Department? If so can you describe the evidence and provide a copy.**

Not at this stage.

**37. Are there any rural needs comments that you wish to raise at this point? Do you have any evidence that would be useful to the Department? If so can you describe the evidence and provide a copy.**

At this stage, only two brief points. Firstly, rural needs/development should be an objective of agricultural policy. It is currently supported via CAP, Pillar 2. It indirectly supports agriculture and similarly agricultural support feeds back in to the rural community. There are considerable concerns surrounding mental and physical health of those in rural communities and their broader needs cannot be ignored (NIA, 2010).

Secondly, identifying appropriate support involves a high level of collaboration with those in the rural communities – urban presumptions/perspectives should not be imposed on those in the rural setting. It is also important to remember that not all those in the rural community are farmers or in farming families. They are not homogenous (Petetin & Dobbs, 2018a).

**38. Are there any regulatory impact comments that you wish to raise at this point? Do you have any evidence that would be useful to the Department? If so can you describe the evidence and provide a copy.**

Not at this stage.

**39. Are there any environmental impact comments that you wish to raise at this point? Do you have any evidence that would be useful to the Department? If so can you describe the evidence and provide a copy.**

See below regarding general comments.

**40. Are there any other comments you wish to make or any other evidence of need that you think the Department would find helpful? Please submit any evidence with your response.**

We have a number of general comments on this policy, which are also reflected in some of our responses above. Overall, the document is a positive start and we recognise the constraints within which DAERA are operating, but:

- a) There is a lack of clarity at times, especially regarding the actual length of the transitional period or what happens after this.

- b) It could be made more ambitious with a broader range of objectives in light of agriculture's multi-functionality.
- c) Much greater detail is needed regarding the nature of the schemes.
- d) The context needs to be borne in mind more also, e.g. the English Agriculture Bill, WTO law, cross-border components, the impact of Brexit on environmental governance, and the continued lack of an operational Assembly and Executive.
- e) It highlights the need to develop other areas similarly.

#### **A. Transitional Period:**

The document refers to a 2-year transitional period for 2020/2021 (p.7) and then an evolution towards a future approach (to be determined) that needs to be managed and well-signposted (p.19).

Firstly, the policy document is not always clear on what the transitional period will be or involve, since it refers to a set period, then an evolution and then discusses potentially continuing on with an approach of resilience payments that seem quite similar on some fronts.

Secondly, if it really is a 2-year period (up to 3 years from now), that is very short for a transitional period. Thirdly, there's no NI executive to approve the future plans currently. Fourthly, therefore also no sign-posting is possible. Certainty, whether legal, policy or financial certainty, is something that farmers rely upon. Farmers need to know how long financing will be guaranteed for and what objectives are priorities, in order to determine what investments are worthwhile and will guarantee financial reward. Rental agreements, purchases, supply orders etc are made in advance and the time is passing quickly. Depending on the investment and the type of farming, the financial rewards may not materialise for years. If the policy might change in the meantime, then there is no (economic) point in investing.

Consequently, very clear plans are required regarding how long precisely the transition period will last for and what will happen afterwards – an overlap period would be appropriate also, whether using the 'resilience payments' or otherwise. It is also necessary that such a transition period be sufficient as to allow farmers to adapt to the new approach.

For comparison sake, England and Wales will have at least until 2027 under the AgBill with potential to extend it.

See the response to Q.1 also.

#### **B. Objectives:**

Broadly speaking, we approve of the objectives outlined. However, they are unnecessarily curtailed, perhaps due to the need to act *intra vires* and the desire not to go beyond what the former Minister outlined as the future goals. Mention was made of food security as very important, although not a ‘primary objective’. Whilst food security is important, we would highlight that other objectives such as food quality, public health and rural development could also have been included. Rural development was adopted by Wales as an objective and the quality of food was indirectly adopted for both England and Wales in the AgBill, but this was limited<sup>5</sup> and all three jurisdictions could go further.

Whilst the proposal notes that the approach is to be synergistic and environmental sustainability is reiterated as a central objective throughout the proposal, including when discussing innovation and productivity, nonetheless the focus does still appear to be on a narrow understanding of productivity. The concept of productivity for England and Wales in the AgBill encompasses quality, however this is not apparent here, with growth seeming to be key. As outlined above (response to Q.9), an excessive focus on productivity can prove problematic and undermine the other objectives – including sustainability and resilience of the agricultural industry. There is also a need for NI to be realistic about what can be achieved as regards growth relative to its competitors.

Overall, the proposal appears overly ambitious in relation to production, whilst being insufficiently ambitious in relation to other objectives.

### C. Details of schemes

**Design** – consideration has been given to the design of the schemes and the value of engaging with farmers. As discussed above, it is important to engage with wider stakeholders in designing general elements of schemes and to be aware of the risks of regulatory capture – see response to Q.27. Expertise of all sorts should be engaged, collaboration will be required, and a common language used to facilitate this. Details of potential elements should be outlined in the future policy. Pilot schemes may be useful to test the effectiveness of proposed approaches, although noting the limits of pilots and the extra delays this might involve in implementing a future policy.

**Outcome focussed – purely?** A key component of the proposed approach for NI, and reflected in the approaches in England and Wales, has been a shift in focus to outcomes. As discussed above (Q.27), this can be very beneficial but poses its own problems and limitations. The proposal does not indicate that the sole focus is to be

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<sup>5</sup> See Prof Tim Lang’s post on the lack of vision for food in the AgBill <https://greenallianceblog.org.uk/2018/09/18/the-new-agriculture-bill-has-no-vision-for-food/>.

that of outcomes, and a mixed approach should be taken to ensure appropriate incentives across the scheme.

**Cross-compliance:** There appears to be considerable internal debate going on within the paper – with cross-compliance favoured, challenged, criticised and then returned to again, e.g. linkages to ‘relevant minimum environmental standards as set out in regulations’ (p.37). Distinctions are made, e.g. regarding ploughing versus grasslands, but there is still some broader variation in approach that seems to reflect a fundamental conflict over whether cross-compliance is valuable or not.

Cross-compliance is a contested tool that has not proven as useful as hoped, but it still has potential. Further, in the context of Brexit and NI’s history of environmental governance as outlined below, cross-compliance could become more important. Careful consideration should be given to discarding cross-compliance – both initially and in the long-term. An effective environmental regulatory regime that can achieve its own goals will be essential. See also the response above at q.21.

#### **D. Contextual Considerations:**

This policy is being created in the contentious and challenging context of Brexit and the continued lack of an operational Assembly and Executive. These are relevant to both agricultural powers and environmental governance, including where they intermesh. These also impact directly on cross-border supply chains, which merit a special mention.

##### **Brexit, devolution and discretion**

The document refers to unprecedented regional discretion and, following Brexit, some powers will indeed return to the UK and via devolution to the 4 jurisdictions. However, the matter is not so simple.

There are restrictions imposed by international environmental and trade law, especially the WTO and the Agreement on Agriculture. Further, the UK controls relevant overlapping elements, reflected in the Customs Act and in the Agriculture Bill. Trade agreements with external partners will lead to further restrictions. Even the nature of NI and NI farming imposes its own contextual, practical restrictions – with clear differences with England and elsewhere. For instance, most NI farms are considered small and are in deprived areas as noted above. As outlined in this proposal (p.8-9), there is a huge dependency on CAP payments – mainly direct payments, but also via a variety of other mechanisms. So, there is flexibility and there are opportunities, but they are not boundless.

A significant consideration and indeed concern for NI should be the Agriculture Bill – targeted mainly at England but with considerable impacts for the 4 devolved jurisdictions, including NI. The AgBill has proposed that the SoS for Agri could

determine the caps for different forms of support across the 4 devolved jurisdictions – despite this not being required by WTO law and despite this being a devolved power (WTO law only requires a cap for Amber box support, not Green or Blue) (Dobbs et al, 2018).

Northern Ireland needs to fight its case for 1) control over the caps for Green and Blue box support at the very least, 2) and input into the Amber box caps.

The AgBill also provides the gradual abolition of direct payments by England and Wales, with the potential for both jurisdictions to create financial assistance schemes (similar in ways to what is proposed in this engagement document). However, despite enabling DAERA to amend the existing system, it does not provide for the abolition or the replacement – as agriculture is a devolved power, arguably this does not prevent NI from bringing in such changes, but the implication from the Bill is that Westminster considers this to be at least quasi-centralised in the circumstances (presumably in light of the desire for a single UK market, in order to ensure compliance with international law and in light of the absence of an operational NI Assembly).

There is also the simple fundamental question of: who pays? Currently the EU and the UK as a whole do, but in future where will the funding come from? NI is not economically strong and is reliant on Westminster for funding. Payments have been guaranteed until 2022 or the end of this current Parliament (p.11), but what of payments after that? Negotiations with Westminster are required, but this also gives Westminster a strong influence over the context of any NI proposals – as they can effectively veto approaches by refusing to fund them.

### **Environmental regulation & Brexit**

We would also highlight that this plan has very positive ambitions from an environmental perspective. However, firstly, the general implementation and enforcement of any environmental scheme is always challenging and has been discussed above.

Secondly, these proposals indicate reliance on environmental regulation to achieve environmental protection/sustainability, but without any detailed consideration of the existing environmental governance in NI or how this may develop post Brexit. 7 lines in total address environmental regulation specifically, noting that it ‘should form a backstop to ensure that farming practice does not cause unacceptable pollution or damage to habitats’.

The proposal effectively operates on the presumption that environmental governance is effective now. Yet, as noted for Q.2, NI has a very poor record of environmental governance. Further, a hard Brexit, or indeed any Brexit whatsoever, will impact

significantly on environmental governance in NI (Brennan et al, 2018). The proposal notes the need to consider environmental governance. This needs to be done immediately – as something valuable independently and also essential in developing an environmentally friendly agricultural policy. Amongst other elements, we would strongly support the development of common frameworks between NI and the rest of the UK and also NI and the ROI in order to address cross-border issues and ensure minimum standards for the future – on this, please see a policy paper co-written by two of the current authors, alongside two other authors: Brennan et al, 2018. It outlines in greater detail the potential for Brexit to undermine environmental governance, the potential role of common frameworks, environmental principles and accountability mechanisms, as well as the significance of the land border with the ROI.

### **Cross-border supply chains**

One of the key proposed objectives of the future policy is an ‘integrated, efficient, sustainable, competitive and responsive supply chain’. The agri-food sector in NI is part of an all-island economy, with “agricultural and food products account[ing] for the largest share of cross-border trade on the island of Ireland.” (McFarlane et al., 2018, p. 13). This interconnectedness is currently beneficial but may prove problematic post Brexit – especially in the case of a hard Brexit. Dairy produce is one of the most notable cross-border products and, for instance, ‘[i]t is estimated that 25% of Northern Irish milk... is processed in the Irish Republic’ (Dobbs et al, 2017). Tariffs aside, any delays could lead to milk perishing and becoming waste products instead. Attempts are still being taken to try and avoid a (hard) border on the island of Ireland, as well as a border between the island of Ireland and GB. Steps also can be taken to make NI production more self-sufficient, e.g. as in the case of LacPatrick, (Kelpie, 2017. However, this proposal barely acknowledged the cross-border issue (p.44) and did not address effectively how DAERA or an eventual NI government might assist farmers and other stakeholders in meeting these potential new challenges, unless DAERA is actually suggesting that insurance or other resilience measures will address a hard border scenario adequately? Again, the limitations of what DAERA can do with limited resources and powers, but consideration of options and suggestion of how to become more self-sufficient would be useful.

### **E. Development of NI policies?**

As noted in the paper, DAERA has proactively continued with 4 stakeholder groups even since the collapse of Stormont. This is to be applauded and there has been significant progress made. However, firstly, it is essential that progress similarly be made in the other areas. Where are the three other ‘engagements’? If it is in the public interest to publish the agricultural document, is it not also in the public interest to publish the other documents?

Secondly, whilst the SoS for NI indicated support for DAERA to make some policy decisions, we are seeing from (i) the Mallusk decision, (ii) the initial reluctance to publish this document, (iii) the use of the term ‘engagement’ rather than consultation, (iv) the objectives being curtailed to those the former minister outlined before the fall of government, and (v) the difficulties in setting out clearer details for the policies post the transition period, that there is a clear need for the ability to create fresh policies and legislate, i.e. for an active and working government. DAERA can only do so much. This is especially the case where there is also no clarity as to the future trade relations between the UK and the EU.

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